

**Maryland General Assembly
Department of Legislative Services**

**Proposed Regulations
Department of Transportation**
(DLS Control No. 22-275)

Overview and Legal and Fiscal Impact

These regulations make numerous changes to the Vehicle Emissions Inspection Program (VEIP). Among other changes, the regulations: (1) extend from 36 months to 72 months the period of time for the initial testing of new vehicles of up to 8,500 pounds that have previously had only a manufacturers certificate of origin (not previously owned), (2) repeal idle exhaust emissions tests, catalytic converter checks, and gas cap leak checks, (3) establish additional exemptions from testing for certain vehicles, and (4) establish motorist assistance centers.

The regulations present two legal issues of concern. Please see the *Legal Issues* section of this analysis below for additional comments.

Transportation Trust Fund (TTF) revenues decrease by approximately \$6.1 million annually beginning in fiscal 2023; TTF revenues may decrease by as much as \$250,000 in fiscal 2022. TTF expenditures decrease by approximately \$178,000 annually beginning in fiscal 2023 and are not materially affected in fiscal 2022.

Regulations of COMAR Affected

Department of Transportation:

Motor Vehicle Administration – Vehicle Inspections: Vehicle Emissions Inspection Program: COMAR 11.14.08.01 through .20

Legal Analysis

Background

Section 23-202 of the Transportation Article requires that every motor vehicle registered in the State of a model year 1977 or newer have an exhaust emissions test and emissions equipment and misfueling inspection biennially. There is an exception to this requirement for qualified hybrid vehicles, which are not required to undergo an initial exhaust emissions test and emissions equipment and misfueling inspection until three years after the vehicle is first registered in the State.

Under current regulations, all previously unowned vehicles of the current or preceding model year that have not been previously titled or registered in another jurisdiction are not required to have an initial testing and inspection at a vehicle emissions inspection station for three years

following the initial registration of the vehicle in the State. Following the initial testing of a new vehicle, or if a vehicle is sold prior to the 3-year initial test, testing is required biennially. Additionally, all lightweight vehicles with a gross vehicle weight under 8,500 pounds and of a model year earlier than 1996 are exempt from testing and inspection.

Vehicle emissions inspection stations are operated and managed by a contractor selected in accordance with bidding procedures established under State law.

Summary of Regulations

The regulations proposed jointly by the Maryland Department of Transportation Motor Vehicle Administration (MVA) and the Maryland Department of the Environment (MDE) make extensive changes to VEIP under COMAR 11.14.08.

The regulations make a number of substantive changes through amended definitions under Regulation .01. “Certificate” is amended to clarify that a vehicle inspection report may be issued electronically or on paper and a specific reference to issuance by the contractor or a fleet inspection station is repealed and replaced with “a designee” of MVA. “Contractor” is amended to remove the specific reference to vehicle emissions inspection stations and instead establishes that the contractor operates and manages the vehicle emissions inspection program. “Inspector” is amended to remove a specific reference to an employee of the contractor performing inspections at an inspection station or a master certified technician performing inspections at a fleet inspection station in favor of more generally “a person authorized to perform official vehicle emissions inspections.”

Additionally, the definition of “qualified hybrid vehicle” is repealed as are references to qualified hybrid vehicles throughout the regulations, to reflect the current practice of delayed initial inspection of all previously unowned new vehicles not titled or registered in a prior jurisdiction, not just qualified hybrid vehicles. The regulations also repeal the definition of, and a reference to, vehicle emissions inspection program customer service representatives, who are employees of MVA, or the contractor assigned to emissions inspection stations responsible for processing waiver applications, issuing waivers, and resolving technical issues and differences.

The regulations also establish, through definition, a “motorist assistance center” which is a resource center operated by the contractor to provide technical emissions-related repair guidance to motorists and vehicle repair technicians.

Under Regulation .04, new inspection exemptions are established for vehicles with a gross weight of 8,501 through 14,000 pounds and of a model year earlier than 2008, and for vehicles with a gross weight of 14,001 through 26,000 pounds and of a model year earlier than 2013.

Under Regulation .05, which provides for inspection schedules for VEIP, the regulations repeal a specific time requirement for MVA to send notice of a scheduled inspection to a vehicle owner but maintain an overall notice requirement. Additionally, the regulations extend the initial testing requirement for a new vehicle that has not been previously titled or registered in any jurisdiction, and for which the ownership document is a manufacturer’s certificate of origin, from

at least 36 months to at least 72 months after the model year of the vehicle. The regulations repeal a dealer's authority to have an unscheduled inspection for a used vehicle owned by the dealer. Further, the regulations repeal provisions that specifically apply to vehicles owned or leased by the federal government. The regulations also provide that a vehicle that has failed an inspection must be presented for reinspection on or before the date of scheduled inspection or the extension expiration date rather than the end of the period of permitted operation. Further, the regulations clarify that proof of repairs to a vehicle that has failed an inspection must be for emissions-related repairs.

Certificate provisions under COMAR 11.14.08.06 are amended to provide that vehicle inspection status certificates will be issued in a manner prescribed by MVA rather than for an inspection cycle and specific, itemized requirements for information contained in a certificate are repealed. Additionally, the requirement that a vehicle owner carry a certificate in the vehicle at all times is repealed. Provisions for pass certificates and fail certificates are modified to remove specific references to an inspection occurring at a vehicle emissions inspection station and for the issuance of the certificate by the contractor. In the event that a fail certificate is issued, MVA or the contractor may refer the vehicle operator to the motorist assistance center.

Provisions governing waiver applications under Regulation .06 are repealed and reorganized under Regulation .07. These provisions include waivers for repairs, senior citizens, disabled persons, and deployed military personnel. The regulations also establish that MVA or the contractor may require approval by the motorist assistance center prior to issuing a repair waiver. Additionally, references to a waiver being issued as a certificate are repealed throughout the regulations.

Under COMAR 11.14.08.08, owners who, due to economic hardship, seek an extension of time in which to obtain needed repairs to a vehicle that failed an inspection are now required to submit documentation that all owners listed on the vehicle title meet federal poverty guideline standards. The definition of poverty line under the Code of Federal Regulations is also incorporated by reference.

The regulations establish that only on-board diagnostic (OBD) testing will be performed moving forward by repealing provisions for on-highway vehicle emissions tests, idle exhaust emissions tests, catalytic converter checks, and gas cap leak tests and make relevant conforming changes throughout the chapter to reflect this shift in emissions inspections.

The regulations repeal several other provisions governing the contractor, including: (1) provisions related to mandatory information that the contractor must include in a quality assurance plan; (2) a requirement that the contractor participate in a blind sample program; and (3) a requirement that the contractor operate each vehicle emissions inspection station with contractor personnel, with overall supervision by MVA and MDOT.

Other provisions are also amended, including: (1) general requirements for vehicle emissions inspection stations and fees that are charged by the contractor; (2) requirements for certification as a master certified emissions technician; (3) requirements to apply and be certified as an emissions repair facility; and (4) standards for fleet inspection stations.

The regulations also make various changes to the organization of the chapter, update cross references and incorporations by reference, and repeal obsolete provisions.

Legal Issues

The regulations present two legal issues related to the exemption of certain vehicles and the methods of emissions testing. First, the regulations exempt certain vehicles by weight range which includes by implication certain Class E trucks. This exemption conflicts with a statutory requirement that the owners of certain Class E trucks have the trucks tested and inspected. Second, the regulations limit emissions testing to exclusively test vehicles using OBD testing. The cessation of all emissions testing other than OBD testing has the effect of preventing the owners of older model Class E trucks from meeting the statutory requirement that those vehicles be tested even if Class E trucks were not being exempted generally. Additionally, while MVA and MDE have the authority to create exemptions from testing for certain vehicles, there is not statutory authority to support the ability of the agencies to eliminate certain types of testing, which the regulations do by limiting all testing to OBD testing. These legal issues are discussed in more depth below.

Exemption of Certain Vehicles

Generally, MVA and MDE are authorized under § 23-207 of the Transportation Article to adopt regulations as required for “the implementation, administration, regulation, and enforcement” of VEIP. This authority includes the adoption of regulations that “consistent with federal law, exempt certain vehicles from inspections and tests” under Title 23, Subtitle 2 of the Transportation Article, which generally governs motor vehicle emissions inspections.

Section 23-206(c) of the Transportation Article requires that, “[n]otwithstanding any rule or regulation to the contrary, the owner of any gasoline powered motor vehicle registered under § 13-916 of this article, with a maximum gross weight up to and including 26,000 pounds” must have the vehicle tested and inspected. Section 13-916(a) provides for the registration of Class E (truck) vehicles, which are single unit trucks with two or more axles. Registration fees for Class E trucks are calculated on gross weight ranges from 10,000 pounds to 80,000 pounds. MDE and MVA have previously exempted all Class E trucks with a gross vehicle weight greater than 26,000 pounds from testing and inspection, which does not conflict with § 23-206 and is within the exemption power granted by § 23-207.

However, as noted above in the *Summary of Regulations* section of this analysis, the regulations establish exemptions for: (1) all vehicles with a gross vehicle weight of 8,501 through 14,000 pounds and of model year earlier than 1996 and (2) all vehicles with a gross vehicle weight of 14,001 pounds through 26,000 pounds and of model year earlier than 2013. Because § 23-206(c) establishes that its requirements supersede any other rule or regulation and dictates that owners of Class E trucks with a gross vehicle weight under 26,000 pounds must have the vehicles tested and inspected, the exemption of Class E trucks that fall within the weight range exemptions established in Regulation .04 conflicts with the statutory requirement of § 26-206(c).

Limitation of Testing to On-board Diagnostic (OBD) Testing

Class E trucks of older model years are not capable of having OBD testing and require idle exhaust emissions tests, catalytic converter checks, and gas cap leak tests, which are tests that are eliminated under the regulations. MVA indicates that the rationale for exempting older model year vehicles from testing is due to the inability to conduct OBD tests for these vehicles. In this instance, abolishing tests other than OBD testing will prevent the owners of Class E trucks without OBD testing capability from meeting the express requirements of § 23-206(c).

Section 23-202(b) of the Transportation Article requires that the emissions control program provide for “the biennial exhaust emissions test and emissions equipment and misfueling inspection for all vehicles of the 1977 model year” or newer. Further, § 23-203 requires MVA and the Secretary of Transportation to provide for the establishment of facilities to conduct any required tests or inspections, and § 23-204 requires these facilities to conduct the exhaust emissions tests and emissions equipment and misfueling inspections of motor vehicles to determine whether each vehicle complies with emissions standards established for that vehicle. While, as previously discussed, authority has been granted to MVA and MDE to exempt certain vehicles from testing, there is no statutory authority for the agencies to eliminate the types of testing expressly provided under the statute.

Summary of Legal Issues

In conclusion, the regulations exempt certain model years of vehicles of certain gross vehicle weights, which by implication includes Class E trucks with a gross vehicle weight under 26,000 pounds, because those vehicles are incapable of having OBD testing performed. This conflicts with the express statutory requirement that the owners of Class E trucks have the vehicles tested without regard to regulations to the contrary. Even if Class E trucks were not exempted under the regulations, some Class E trucks will continue to require testing by a method other than OBD testing if the owners of those trucks are to comply with the statutory mandate. In order to avoid owners of certain vehicles being required to have their vehicles tested but not providing them with the tests necessary to meet the requirement, MVA and MDE cannot eliminate testing other than OBD. Additionally, the statutory requirement that the emissions control program provide for exhaust emissions tests and emissions equipment and misfueling inspection would seemingly preclude the complete elimination of the idle exhaust emissions test, catalytic converter check, and gas cap leak test.

The Department of Legislative Services (DLS) has notified MVA and MDE regarding these legal issues.

In addition to the legal issues noted in this section, please see the *Technical Corrections and Special Notes* section of this analysis below for additional topics of possible concern.

Statutory Authority and Legislative Intent

MVA and MDE cite §§ 1-101, 1-404, 2-101 through 2-103, and 2-301 through 2-303 of the Environment Article and §§ 12-104(b), 23-202(a), 23-206.2, 23-206.4, and 23-207 of the Transportation Article as statutory authority for the regulations.

More specifically, § 2-103(b) of the Environment Article provides that MDE has jurisdiction over emissions into the air and ambient air quality, is responsible for monitoring ambient air quality, and is required to coordinate all State agency programs on ambient air quality. Section 2-301(a) authorizes the department to adopt regulations for the control of air pollution including testing and § 2-302(b) requires the department to adopt regulations that set emission standards and ambient air quality standards for each of the air quality control areas in the State.

Section 12-104(b) of the Transportation Article authorizes MVA to adopt rules and regulations related to Maryland Vehicle Law and any other area of law that the administration is authorized to administer and enforce. Section 23-202(a) requires the administration and the Secretary of the Environment to establish an emissions control program for the State in accordance with the federal Clean Air Act (CAA). Section 23-206.2 exempts from mandatory VEIP inspections motor vehicles owned by certain individuals and authorizes the Administrator of the Motor Vehicle Administration to adopt regulations to establish the exemptions. As discussed above, § 23-207 authorizes the Secretary of the Environment and the Motor Vehicle Administration to adopt regulations for the purposes of the implementation, administration, regulation, and enforcement of the provisions of the subtitle establishing vehicle emissions inspections, including rules and regulations that, consistent with federal law, exempt certain vehicles from the inspections and tests.

The remaining cited authority is not relevant to these regulations.

Given the issues noted in the *Legal Issues* section of this analysis above and the qualifications noted in the *Technical Corrections and Special Notes* section of this analysis below, the regulations do not comply with the legislative intent of the law.

Technical Corrections and Special Notes

DLS contacted MVA regarding the legal issues noted in the *Legal Issues* section above, and also discussed several other potential issues, which are addressed below.

Extension of Initial Testing Requirements for New Vehicles

The regulations extend the initial testing requirement for a new vehicle that has not been previously titled and for which the ownership document is a manufacturer's certificate of origin from at least 36 months to at least 72 months after the model year of the vehicle. If a new model year vehicle is sold at any point prior to the 36 months (or the proposed 72 months), the standard biennial testing requirement applies even if it is still the model year in which the vehicle was manufactured.

Following a request for clarification from DLS, MVA indicates that it interprets § 23-202(a) of the Transportation Article as authorizing the initial testing delay because CAA does not prohibit such an extension. MVA asserts that because there is no conflict, MVA is acting in accordance with CAA and therefore is also within the authority granted to it by the General Assembly. CAA provides for the states to establish and manage vehicle emissions testing programs. There is not a specific requirement that governs the timing of initial testing under a state emissions testing program for a new, previously unowned vehicle purchased by a consumer. Although MVA is correct to assert it is not prohibited under federal law from implementing delayed initial testing for all new vehicles, § 23-202 must be considered in its entirety and in the context of all of Title 23, Subtitle 2 of the Transportation Article. As with other aspects of VEIP, the regulations must both conform to CAA and not conflict with State statutory requirements.

As mentioned, § 23-202(b) requires that the emissions control program provide for the biennial exhaust emissions test and emissions equipment and misfueling inspection for all vehicles of the 1977 model year or newer. The provision establishes one express exception to biennial testing for qualified hybrid vehicles, which are not required to submit to initial testing for three years, but are required to undergo biennial testing thereafter. The simplest interpretation of the plain language of this provision is that all vehicles of the relevant model years must be tested every two years following the registration of the vehicle in the State with the narrow exception for qualified hybrid vehicles. Further, the inclusion of one express statutory exception for the initial testing for certain vehicles may be interpreted to preclude any other exemptions to initial testing. In other words, if the General Assembly had intended to extend initial testing for additional vehicles, it could have done so as it did for qualified hybrid vehicles and it has not. This raises issues for both the existing initial extended test requirement of 36 months for all new vehicles as well as the extension of the initial test requirement to 72 months in these regulations.

Additional Testing Exemptions

In addition to the delayed initial testing of certain vehicles, as mentioned in the *Legal Issues* section of this analysis, the regulations establish new inspection exemptions for vehicles with a gross weight of 8,501 through 14,000 pounds and of a model year earlier than 2008, and for vehicles with a gross weight of 14,001 through 26,000 pounds and of a model year earlier than 2013. Further, the regulations repeal express language providing for an exemption of vehicles of a model year earlier than 1977, which reflects regulations adopted in 2018 that exempted from testing any vehicle with a gross vehicle weight of 8,500 pounds or less and of a model year older than 1996. When the exemption for all lightweight vehicles prior to the 1996 model year was first proposed, DLS explained in its analysis of those regulations (DLS Control No. 17-147) that the exemption from testing of all vehicles over a period of 18 model years may be interpreted as inconsistent with the legislative intent behind the general statutory testing requirement for all vehicles model year 1977 and newer, notwithstanding exemption authority granted under § 23-207 of the Transportation Article. These regulations exempt an even greater number of model years than previous regulations and it remains unclear if the General Assembly intended for the exemption authority of the agencies to be applied so expansively.

In the statement of purpose and in responses to requests by DLS, the agencies extensively outline continuing improvements in motor vehicle fuel efficiency technology and the rapidly

decreasing number of vehicles that predate such technology as justification for changes to VEIP. DLS makes no judgment on the advisability or inadvisability of substantive changes to the program to reflect advances in motor vehicle emissions technology. However, it is unclear whether the General Assembly intended for such major changes to VEIP to be made through regulations that rely on a broad interpretation of the authority of MVA and MDE rather than such changes being made through the legislative process. Existing and proposed regulations may not comply with the legislative intent of the law.

To address these and other issues, DLS again recommends that MVA and MDE introduce departmental legislation that would address legal issues, obviate ambiguity regarding the authority of the agencies to implement certain changes to VEIP, and modernize statutory requirements to reflect technological advances in emissions technology.

Vehicle Emissions Inspection and the Independent Contractor

As stated in the *Summary of Regulations* section of this analysis, the regulations make certain changes to the definitions of and references to the contractor, employees of the contractor, and vehicle emissions inspection stations. DLS requested clarification on the purpose of some of these minor changes and MVA indicates that the agencies are considering different emissions testing options, including the potential use of private businesses like certified repair facilities to conduct inspections and testing. Because MVA indicates that different testing options are only being considered, it is not possible to provide an accurate legal analysis beyond what would be statutorily required should the agency decide to implement changes to how VEIP is managed and operated.

Under § 23-203 of the Transportation Article, MVA and MDE are required to establish facilities to conduct any tests or inspections required for VEIP. If MVA and MDE determine that VEIP can be installed and operated more effectively and economically by an independent contractor, they may award the installation and operation of the facilities to an independent contractor selected in accordance with bidding procedures established under State law.

Section 23-203(a)(3) provides that, if required by federal law to extend VEIP to areas beyond the Metropolitan Baltimore Intrastate Air Quality Control Region, MVA and MDE may (1) award the installation and operation of the inspection facilities to one contractor for the installation and operation of all inspection facilities in the State, or (2) create separate regions of the areas in the State that are required under federal law to participate in an emissions control program for the purpose of separately awarding contracts to one or more independent contractors for the installation and operation of inspection facilities required for each region. Under § 23-203(a)(3)(ii), all independent contractors are required to be selected in accordance with the procedures established under the State Finance and Procurement Article. The provision also authorizes MVA and MDE to establish a centralized and decentralized program or any combination of centralized and decentralized programs in the separate regions of the State.

While not specifically articulated in subsection (a)(3) of the section, § 23-203(c) uses specific language indicating that the decentralized program is a “decentralized retesting program” as distinguished from vehicle emissions testing facility initial testing. In order to establish a

decentralized retesting program, on or before March 1st annually, MVA and MDE are required to determine: (1) whether it is feasible for equipment and procedures used for retesting at a certified repair facility are within a specified degree of accuracy as those performed at centralized inspection facilities, and (2) that the establishment of a retesting option does not result in a loss of emissions reduction benefits to the State under the CAA.

Under § 23-203(e), if the MVA and MDE determine that it is feasible for certified repair facilities to conduct retesting within the specified degree of accuracy necessary and that a decentralized retesting program will not result in the loss of emissions reduction benefits, MVA and MDE are required to propose regulations for a decentralized retesting program. The proposed regulations must: (1) allow the owner of a vehicle that fails an exhaust emissions test or emissions equipment and misfueling inspection at a vehicle emissions inspection station to have the vehicle retested at either a centralized inspection facility or an approved certified repair facility; (2) allow a certified repair facility to retest vehicles if approved for that purpose by MDE; (3) require initial emissions tests to be performed at a centralized inspection facility; (4) establish criteria for testing, equipment, procedures, and reporting of retests by approved certified repair facilities; (5) provide for the suspension, revocation, denial, or renewal for certified repair facilities to conduct retests; and (6) establish a reasonable fee for approval of a certified repair facility to perform retests that cover the costs of the approvals and oversight of the decentralized retesting program. There is no enabling language authorizing retesting by any entity other than a vehicle emissions inspection station or a certified repair facility.

As previously stated, MVA indicates that different emissions testing options for vehicles are currently only under consideration and that the changes to certain definitions and provisions are to allow for those potential changes. Based on the response from MVA to the request for clarification by DLS, the implementation of a decentralized retesting program may be among options being considered. If so, the requirements of § 23-203 would dictate that the contingencies regarding the required accuracy of decentralized retesting and that the establishment of decentralized retesting not result in a loss of emissions reduction benefits to the State under CAA have been met. MVA has not provided information to DLS on the status of those contingencies. Further, as noted above, § 23-203 requires that MVA and MDE propose regulations under certain circumstances for the implementation of a decentralized retesting program that specifically incorporate certain provisions, including those that (1) require initial testing to be conducted at a vehicle emissions inspection station, (2) provide for retesting by both the vehicle emissions inspections stations and certified repair facilities, and (3) expressly authorize owners of vehicles that have failed an initial inspection to have the vehicles retested at either a vehicle emissions inspection station or a certified repair facility. These regulations do not include such express provisions as alterations do not differentiate between initial testing and retesting requirements or limit inspection of any kind to the two authorized entities. If MVA plans to implement a decentralized retesting program, additional regulations may need to be proposed in order to meet the requirements of § 23-203.

Fiscal Analysis

Transportation Trust Fund (TTF) revenues decrease by approximately \$6.1 million annually beginning in fiscal 2023; TTF revenues may decrease by as much as \$250,000 in fiscal 2022. TTF expenditures decrease by approximately \$178,000 annually beginning in fiscal 2023 and are not materially affected in fiscal 2022.

Agency Estimate of Projected Fiscal Impact

As noted above, among other changes, the regulations: (1) extend from 36 months to 72 months the period of time for the initial testing of new vehicles of up to 8,500 pounds that have previously had only a manufacturer's certificate of origin (not previously owned); (2) repeal idle exhaust emissions tests, catalytic converter checks, and gas cap leak checks; and (3) establish additional exemptions from testing for certain vehicles.

The department advises that TTF revenues decrease by approximately \$3.1 million in fiscal 2022, which assumes a net decrease of 163,755 VEIP inspections in fiscal 2022. However, this estimate assumes a December 1, 2021 effective date. DLS advises the regulations likely cannot take effect until mid-June 2022 at the earliest. Additionally, based on more recent data provided by MVA, DLS disagrees with the department's estimated fiscal impact of the regulations as proposed.

Based on data submitted by MVA in late 2021, approximately 323,576 fewer vehicles are subject to VEIP testing on an annual basis as a result of the additional exemptions. However, MVA also assumes a partially offsetting increase in VEIP tests (totaling approximately 79,719 tests for used vehicles annually), resulting in a net change of 243,857 fewer VEIP tests annually. DLS disagrees that the regulations result in any additional VEIP inspections; any such used vehicles are already subject to VEIP inspections under current law and will continue to be subject to the same inspections under the regulations. Nevertheless, to the extent used vehicle VEIP inspections are accelerated as a result of the regulations, DLS anticipates this would be a one-time acceleration and would be fully offset in subsequent years.

Accordingly, assuming 323,576 fewer vehicles are subject to VEIP testing annually as a result of the changes made by the regulations, TTF revenues decrease by \$4.3 million annually due to inspection fees beginning in fiscal 2023. Additionally, as noted by MVA, late fees tend to comprise a relatively large share of overall VEIP revenues (representing about 40% of total VEIP inspection revenues). As a result, TTF revenues further decrease by \$1.7 million annually due to fewer late fee assessments. In total, as shown in **Exhibit 1**, DLS estimates that TTF revenues decrease by about \$6.1 million in fiscal 2023, assuming the regulations take effect July 1, 2022. However, should the regulations take effect sooner, TTF revenues are also minimally affected in fiscal 2022. For example, should the regulations take effect in mid-June 2022, TTF revenues are expected to decrease by about \$253,600 in fiscal 2022.

Exhibit 1
Revenue Effect of Vehicle Emissions Inspection Program Exemptions

	<u>Reduction in Test Volume</u>	<u>VEIP Station Test Reduction (85%)</u>	<u>VEIP Kiosk Test Reduction (15%)</u>	<u>VEIP Station Revenue Reduction</u>	<u>VEIP Kiosk Revenue Reduction</u>	<u>Late Fee Revenue Reduction</u>	<u>Total Revenue Effect</u>
New Vehicles (4-6 Years)	303,417	257,904	45,513	\$3,610,656	\$455,130	\$1,626,314	\$5,692,100
Pre-OBD Vehicles*	20,159	20,159	*	\$282,226	*	\$112,890	\$395,116
Total	323,576	278,063	45,513	\$3,892,882	\$455,130	\$1,739,204	\$6,087,216

*Pre-OBD tests are only available at VEIP stations. The pre-OBD vehicles are no longer required to be tested under the regulations and reflect heavy-duty vehicles which were built prior to the availability of modern onboard diagnostic emissions control technology.

Source: Maryland Department of Transportation; Department of Legislative Services

The department further advises the regulations are expected to result in fewer mailings (specifically for testing notices). The annual savings related to fewer mailings is estimated by MVA to result in a \$90,065 decrease in TTF expenditures. Again, the department's estimate assumes a December 1, 2021 effective date. Assuming a July 1, 2022 effective date (and based on the updated VEIP inspection data provided by MVA in late 2021), DLS advises the TTF expenditure savings totals \$177,967 annually, with a minimal effect in fiscal 2022 should the regulations take effect in June 2022.

Impact on Budget

The regulations have no material impact on the State operating or capital budget. However, as noted above, TTF expenditures decrease by about \$178,000 on an annual basis.

Agency Estimate of Projected Small Business Impact

The department advises that the regulations have minimal or no economic impact on small businesses in the State. The Department of Legislative Services disagrees. Under the regulations, certified repair facilities, many of which are assumed to be small businesses, are likely meaningfully affected. Under the regulations, a vehicle owner may have a VEIP inspection conducted at any such facility (*i.e.*, rather than only at State VEIP facilities). Additionally, the regulations establish VEIP motorist assistance centers to provide motorists with access to an emissions repair specialist to help ensure that vehicles are repaired correctly and in a timely

manner. To the extent any such entities qualify as small businesses, the regulations have a meaningful impact on those entities, which are not authorized under current law or regulations.

Additional Comments

MVA anticipates any new VEIP contract will move from the current flat contract price (*i.e.*, regardless of the number of tests the contractor performs, the cost to the State remains the same) to pricing per test administered. This will ensure that the State only pays for services performed, as the VEIP testing numbers will continue to fluctuate in the future. Thus, while not a direct impact of the regulations, TTF expenditures may be further affected by this change, depending on testing volume in future years.

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